

United States District Court
District of Utah

FILED
2006 AUG 24 P 3:18

UNITED STATES OF AMERICA

vs.

Brent Paul Burrows

AMENDED JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

BY: DEPUTY CLERK

Case Number: DUTX 1:05CR000139-001

Plaintiff Attorney: Richard McKelvie

Defendant Attorney: Robert Steele

Atty: CJA ___ Ret ___ FPD X

Defendant's Soc. Sec. No.: XXX-XX-9507

Defendant's Date of Birth: 1951

Defendant's USM No.: 13076-081

Defendant's Residence Address:

Country _____

08/01/2006

Date of Imposition of Sentence

Defendant's Mailing Address:

Country _____

THE DEFENDANT:

☒ pleaded guilty to count(s)

☐ pleaded nolo contendere to count(s)
which was accepted by the court.

☐ was found guilty on count(s)

COP 05/08/2006 Verdict _____

One of the Indictment

Title & Section
18 USC § 844(e)

Nature of Offense
Maliciously Conveying False Information

Count
Number(s)
1

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of _____

Upon release from confinement, the defendant shall be placed on supervised release for a term of _____

☒ The defendant is placed on Probation for a period of 12 Months
The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☒ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. The defendant shall complete 100 hours community service in activities pre-approved by the United States Office of Probation and Pretrial Services.
2. The defendant shall submit his person, residence, office or vehicle to a search, conducted by a USPO at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
3. Pursuant to 42 U.S.C. § 14135a and 10 U.S.C. § 1565, as authorized in Section 3 of the DNA Analysis Backlog Elimination Act of 2000 and Section 203 of the Justice for All Act of 2004, the defendant shall submit to the collection of a DNA sample at the direction of BOP or the United States Probation Office.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ NONE , payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ other:

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).

- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), it is ordered that:

- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☐ other: _____

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 100.00, payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

DEPARTURE

The Court grant the Motion for Departure pursuant to 18 U.S.C. 3553(c)(2), the Court enters its reasons for departure:

RECOMMENDATION

- ☐ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:
-

CUSTODY/SURRENDER

- ☐ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE: 8-25-2006

Tena Campbell
Tena Campbell
United States District Judge

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

The Statement of Reasons
filed with the original J&C
has not been altered and so
will not be re-submitted with
this amended J&C

FILED
U.S. DISTRICT COURT

2006 AUG 24 P 3:18

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

BARBARA K. BERRETT [A4273]

MARK D. TAYLOR [A9533]

BERRETT & ASSOCIATES, L.C.

Key Bank Tower, Suite 530

50 South Main Street

Salt Lake City, Utah 84144

Telephone: (801) 531-7733

Facsimile: (801) 531-7711

*Attorneys for Plaintiffs The Ohio Casualty Insurance Company
and West American Insurance Company*

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

THE OHIO CASUALTY INSURANCE
COMPANY, an Ohio corporation; and WEST
AMERICAN INSURANCE COMPANY, an
Indiana corporation, UNIGARD
INSURANCE COMPANY

Plaintiffs,

vs.

CLOUD NINE, LLC, a Utah corporation;
EASY SEAT, LLC, a Utah corporation;
RODNEY FORD, a New York resident,
individually; BLAINE FORD, a Utah
resident, individually and REX HADDOCK,
a Utah resident, individually

Defendants.

**ORDER GRANTING PLAINTIFF'S
MOTION FOR LEAVE OF THE COURT
TO FILE AN OVER LENGTH
MEMORANDUM IN OPPOSITION TO
UNIGARD'S MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Civil No. 1:05CV00088 TC

Judge Tena Campbell

CLOUD NINE, LLC, a Utah corporation;
EASY SEAT, LLC, a Utah corporation;
RODNEY FORD, a New York resident,
individually; BLAINE FORD, a Utah
resident, individually; and REX HADDOCK,
a Utah resident, individually,


<p>Counterclaim Plaintiffs</p> <p>vs.</p> <p>THE OHIO CASUALTY INSURANCE COMPANY, an Ohio corporation; and WEST AMERICAN INSURANCE COMPANY, an Indiana corporation,</p> <p>Counterclaim Defendants</p>	
<p>UNIGARD INSURANCE COMPANY, a Washington corporation,</p> <p>Plaintiff/Intervenor and Cross Claimant</p> <p>vs.</p> <p>THE OHIO CASUALTY INSURANCE COMPANY, an Ohio corporation; and WEST AMERICAN INSURANCE COMPANY, an Indiana corporation,</p> <p>Cross-Claim Defendants</p>	

Bases upon plaintiffs Motion for Leave to File an Over Length Memorandum in opposition to Unigard's Motion for Partial Summary Judgment regarding Insurers' Defense Obligations, and good cause appearing therein, it is hereby

ORDERED, that plaintiff Ohio Casualty's Motion to File an Over Length Memorandum is Granted; it is

FURTHER ORDERED, that plaintiff's Memorandum in Opposition shall not exceed more than six (6) additional pages of argument.

DATED this 24 day of August, 2006.


THE HONORABLE TENA CAMPBELL
UNITED STATES DISTRICT COURT JUDGE

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 24 2006

BY MARKUS B. ZIMMER CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUAN SOLARIO-ZAVALA,

Defendant.

Case No. 1:06CR 62 DAK

**CONSENT TO ENTRY OF PLEA
OF GUILTY BEFORE THE
MAGISTRATE JUDGE AND
ORDER OF REFERENCE**

Pursuant to 28 U.S.C. § 636(b)(3), the defendant, JUAN SOLARIO-ZAVALA, after consultation and agreement with counsel, consents to United States Magistrate Judge Brooke C. Wells accepting defendant's plea of guilty and to the Magistrate Judge conducting proceedings pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The defendant also acknowledges and understands that sentencing on his plea of guilty will be before the assigned District Judge after a pre-sentence investigation and report, and compliance with Fed.R.Crim.P. 32.

The United States, by and through the undersigned Assistant United States Attorney, consents to the Magistrate Judge conducting plea proceedings pursuant to Fed.R.Crim.P. 11, and

accepting the defendant's plea of guilty as indicated above,
pursuant to such proceedings.

DATED this 24th day of August, 2006.

Juan Solorio
Defendant

Danilo M. Ramos
Attorney for Defendant

[Signature]
Assistant United States Attorney

ORDER OF REFERENCE

Pursuant to 28 U.S.C. § 636(b)(3), and the consent of the
parties above mentioned, including the defendant,

IT IS HEREBY ORDERED that United States Magistrate Judge
Brooke C. Wells shall hear and conduct plea rendering under
Fed.R.Crim.P. 11, and may accept the plea of guilty from the
defendant pursuant thereto after full compliance with
Fed.R.Crim.P. 11.

DATED this 16th day of August, 2006

BY THE COURT:

Dale A. Kimball
DALE A. KIMBALL
United States District Judge

Rebecca C. Hyde (#6409)
SKORDAS, CASTON & HYDE, LLC
9 Exchange Place, #1104
Salt Lake City, Utah 84111
Telephone: (801) 531-7444
Facsimile: (801) 531-8885

FILED
U.S. DISTRICT COURT
2006 AUG 25 A 10:05

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES,)

Plaintiff,)

vs.)

CARLOS JARAMILLO,)

Defendant.)

ORDER TO WITHDRAW

Case No. 2:00cr251

Judge Tena Campbell

Based upon the Motion to Withdraw as counsel and good cause appearing therefore, it is hereby **ORDERED** that Rebecca C. Hyde is hereby permitted to WITHDRAW as counsel of record.

DATE this 25 day of August, 2006.

BY THE COURT

Tena Campbell

Judge Tena Campbell

RECEIVED

STEPHEN J. SORENSON, Acting United States Attorney (#3049)
JEANNETTE F. SWENT, Assistant United States Attorney (#6043)
Attorneys for the United States of America
185 South State Street, Suite 400
Salt Lake City, Utah 84111-1506
Telephone (801) 524-5682

AUG 22 2006
AUG 24 P 3:22

OFFICE OF
JUDGE TENA CAMPBELL

BY: DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,	)	ORDER
)	
vs.)	
)	
JASON MATTHEW HAMMOND,	)	Case No. 2:00CR00300-001C
)	
Defendant,	)	Honorable Tena Campbell

The Court, having received the Stipulation of the parties dated Aug 21, 2006
and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Judgment was entered on January 19, 2001 in the total sum of \$17,468.50 in favor of the United States of America (hereafter the "United States") and against Jason Matthew Hammond (hereafter "Hammond").

2. Hammond has agreed to pay and the United States has agreed to accept monthly installment payments from him in the amount of \$100.00 commencing on August 1, 2006 and continuing thereafter on the 1st day of each month for a period of 12 months. At the end of said time period, and yearly thereafter, Hammond shall submit a current financial statement to the United States Attorney's Office. This payment schedule will be evaluated and may be modified, based on the documented financial status of Hammond.

3. In addition to the regular monthly payment set forth in paragraph 2, above, Hammond has agreed that the United States may submit his debt in the above-captioned case to the State of Utah and the U.S. Department of Treasury for inclusion in the State Finder program and the Treasury Offset program. Hammond understands that under these programs, any state or federal payment that he would normally receive may be offset and applied toward the debt in the above-captioned case.

4. Hammond shall submit all financial documentation in a timely manner and keep the United States Attorney's Office apprised of the following:

- a. Any change of address; and
- b. Any change in employment.

5. The United States has agreed to refrain from execution on the judgment so long as Hammond complies strictly with the agreement set forth in paragraphs 2 and 4, above. In the event Hammond fails to comply strictly with the terms set forth in the Stipulation dated _____, the United States may move the Court ex parte for a writ of execution and/or a writ of garnishment or any other appropriate order it deems necessary for the purpose of obtaining satisfaction of the judgment in full.

DATED this 24 day of August, 2006.

yc

BY THE COURT:

Tena Campbell

Tena Campbell, Judge
United States District Court

APPROVED AS TO FORM:

Jason Hammond

JASON MATTHEW HAMMOND
Defendant

FILED
U.S. DISTRICT COURT

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2006 AUG 24 P 3: 20

AUG 23 2006

DISTRICT OF UTAH OFFICE OF
JUDGE TENA CAMPBELL

BY: _____
DEPUTY CLERK

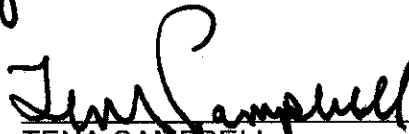
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	Case No.: 2:02cr00259 TC
	:	2:06cr00532 PGC 2:06cr00532 PGC
Plaintiff,	:	
vs.	:	ORDER FOR MOTION TO RE- ASSIGN CASE
LUIS ALFONSO HERRERA- CASTELLANOS,	:	JUDGE TENA CAMPBELL
Defendant.	:	

Based on the United States' motion, and good cause appearing, this Court
orders the clerk's office to re-assign Case No. 2:06cr00532 PGC to Judge Campbell.

☒ IT IS SO ORDERED.

Dated this 24 day of August 2006.


TENA CAMPBELL
District Court Judge _____

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

FILED
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

Plaintiff,

DAMIEN MCNEAR

Defendant

2006 AUG 24 P 3:22

DISTRICT OF UTAH

BY:

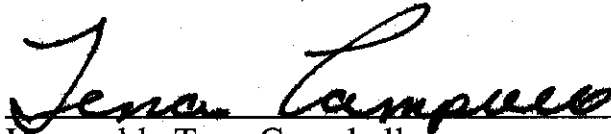
DEPUTY 2:02-CR-00418-001-TC

ORDER

It is hereby ordered that the presentence investigation report prepared by the United States Probation Office and the psychological evaluation prepared July 29, 2005, by John Okiishi, Ph.D., be released to the Utah State Office of Rehabilitation.

DATED this 24 day of Aug, 2006

BY THE COURT:



Honorable Tena Campbell
United States District Judge

United States Probation Office
for the District of Utah

Report on Offender Under Supervision

RECEIVED

Name of Offender: **Damien McNear**

Docket Number: **2:02-CR-00418-001-TC**

Name of Sentencing Judicial Officer:

Honorable Tena Campbell
United States District Judge

OFFICE OF
JUDGE TENA CAMPBELL

Date of Original Sentence: **May 6, 2003**

Original Offense: **Felon In Possession of a Firearm**

Original Sentence: **12 Months BOP Custody/24 Months Supervised Release**

Type of Supervision: **Supervised Release** Supervision Began: **February 2, 2004**

SUPERVISION SUMMARY

The probation office is requesting authorization to release Mr. McNear's presentence report and psychological evaluation dated July 29, 2005, prepared by John Okiishi, Ph.D., to the Utah State Office of Rehabilitation. The presentence report includes mental health information from Valley Mental Health. The Utah State Office of Rehabilitation is in the process of making a Social Security Disability determination of Mr. McNear, and they have requested medical, psychological, and IQ testing results that our office has available. Enclosed with their request is an Authorization for Release of Information signed by Mr. McNear on October 3, 2005.

Following his conviction, Mr. McNear appeared before the Court and was committed to the custody of the Bureau of Prisons for 12 months, followed by 24 months of supervised release. Due to Mr. McNear's mental, emotional, and physical problems, he was incarcerated at the Federal Medical Center in Rochester, Minnesota. His term of supervised release began on February 2, 2004, and it was clearly evident that the defendant had made a poor adjustment to supervision. On August 4, 2005, Mr. McNear's term of supervised release was revoked, and he was resentenced to time served with no supervision to follow. During Mr. McNear's involvement with the federal Court and probation office, psychological evaluations were completed by John Okiishi, Ph.D. at Valley Mental Health on July 29, 2005. It appears that releasing Mr. McNear's presentence report and the psychological evaluation dated July 29, 2005, prepared by John Okiishi, Ph.D., will assist the Utah State Office of Rehabilitation in making a determination regarding Mr. McNear's Social Security Disability claim.

If the Court concurs with releasing Mr. McNear's presentence report and psychological evaluation dated July 29, 2005, prepared by John Okisshi, Ph.D., an Order is attached for approval.

If the Court desires more information or another course of action, please contact me at (801) 535-4254.

I declare under penalty of perjury that the foregoing is true and correct.

Shelley Mangum

Shelley Mangum
United States Probation Officer
August 15, 2006

Attachment

Thomas M. Melton (4999)
Karen L. Martinez (7914)
Securities and Exchange Commission
15 West South Temple, Suite 1800
Salt Lake City, Utah 84101
(801) 524-5796

Attorneys for the Plaintiff

FILED
U.S. DISTRICT COURT
2006 AUG 24 P 3:24

DISTRICT OF UTAH

BY: DEPUTY CLERK

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AUG 18 2006

OFFICE OF
JUDGE TENA CAMPBELL
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

MERRILL SCOTT & ASSOCIATES, LTD.,
MERRILL SCOTT & ASSOCIATES, INC.,
PHOENIX OVERSEAS ADVISERS, LTD.,
PATRICK M BRODY,
DAVID E. ROSS II, and
MICHAEL G. LICOPANTIS

Defendant.

CIVIL NO: 2:02 CV 0039 C

~~PROPOSED~~ ORDER TO TRANSFER
FUNDS TO THE COURT-APPOINTED
RECEIVER

Judge Tena Campbell

Magistrate Judge David Nuffer

The Securities and Exchange Commission (the "Commission"), by and through
its counsel of record, having moved for the transfer of funds, no response having been
received and good cause appearing therefore,

I.

IT IS HEREBY ORDERED that the funds in the amount of \$120,000 currently held in the registry of the United States District Court for the District of Utah be transferred to the court-appointed receiver, David K. Broadbent;

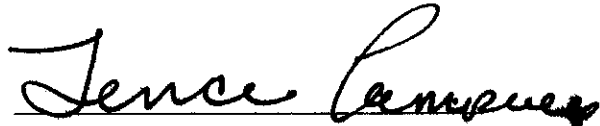
II.

IT IS FURTHER ORDERED that the Clerk of Court shall transfer the amount of \$120,000 in the form of certified check or money order (identifying payment of civil monetary penalty of Defendant David E. Ross, II in the matter 2:02 CV 0039 C) to David K. Broadbent, Receiver, Holland & Hart, LLP, 60 East South Temple Street, Suite 2000, Salt Lake City, Utah 84111 and with a copy of the check or money order sent to counsel for the Commission, Thomas M. Melton, Securities and Exchange Commission, 15 West South Temple Street, Suite 1800, Salt Lake City, Utah 84101 within ten (10) business days of this Order; and,

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over this action for the purposed of implementing and carrying out the terms of all orders and decrees which may be entered herein and to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

Dated this 24 day of Aug 2006.



UNITED STATES DISTRICT JUDGE

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U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

2006 AUG 24 P 3:22

AUG 22 2006

DISTRICT OF UTAH

SECURITIES AND EXCHANGE COMMISSION,

2:02CV-1086 (TC)

OFFICE OF
JUDGE TENA CAMPBELL

BY: _____
DEPUTY CLERK

Plaintiff,

v.

ALLEN Z. WOLFSON, et al.,

Defendants.

: ~~PROPOSED~~ ORDER TO
: DISBURSE FUNDS
: TO PAY TAX OBLIGATIONS
: FOR THIRD QUARTER
: OF 2006

The Court, having reviewed Plaintiff SEC's Motion to Disburse Funds to Pay Tax Obligations for the Third Quarter of 2006, and the supporting Declaration of the Tax Administrator (the "Declaration"), and for good cause shown,

IT IS HEREBY ORDERED:

1. The Distribution Agent shall issue a check for the amount of \$350, payable to "Damasco & Associates, Trust Account" for the payment of tax obligations, as provided in the Declaration. The check shall contain the notation *SEC v. Wolfson, et al.*, 2:02 CV -1086 (TC), Federal Tax ID number 20-3012456, and "tax payment for third quarter 2006."

2. The Distribution Agent shall send the check by overnight mail to: Damasco & Associates, LLP, 244 Jackson Street, Fourth Floor, San Francisco, CA 94111, phone: 415-217-4900.

Dated: 8-24-2006


HONORABLE TENA CAMPBELL
UNITED STATES DISTRICT JUDGE

CANDICE A. JOHNSON (#4745)
Attorney for Defendant
10 West Broadway, Suite 210
Salt Lake City, Utah 84101
Telephone: (801) 532-5297
Facsimile: (801) 532-5298

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DISTRICT OF UTAH

BY: DEPUTY CLERK

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AUG 23 2006

OFFICE OF
JUDGE TENA CAMPBELL

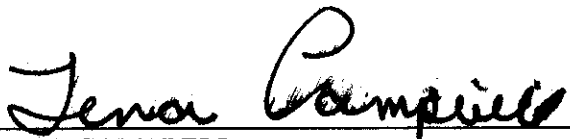
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. CHARLES ROBISON, Defendant.	ORDER MODIFYING CONDITIONS OF SUPERVISED RELEASE Case No. 2:03-CR-260 TC (Judge Tena Campbell)
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Based upon motion of defendant, stipulation of Assistant U.S. Attorney, Carlos Esqueda, and
for good cause shown;

IT IS HEREBY ORDERED that Mr. Charles Robison is released at this time from the federal
half-way house. All other terms and conditions of supervised release are to remain in force.

DATED this 24 day of August 2006.


TENA CAMPBELL
U.S. District Court Judge

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U.S. DISTRICT COURT

2006 AUG 25 A 10:02

IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH

CENTRAL DIVISION

BY: DEPUTY CLERK

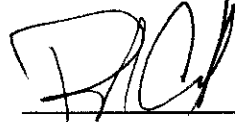
ANNABEL IVIE, For and in behalf of	:	ORDER OF DISMISSAL WITH
her father, DONALD P. HANSEN,	:	PREJUDICE
deceased,	:	
Plaintiff,	:	
vs.	:	Civil No. 2:03CV 0206PGC
UNITED STATES OF AMERICA,	:	Honorable Paul G. Cassell
Defendant.	:	

Based on the Stipulation for Dismissal of Prejudice submitted herewith,

IT IS HEREBY ORDERED that Plaintiff's Complaint and all claims asserted therein are hereby dismissed with prejudice and on the merits, each of the parties to bear their own costs and attorney's fees. All motions are to be terminated, and the Clerk's Office is directed to close this case.

DATED this 24th day of August, 2006.

BY THE COURT:



Honorable Paul G. Cassell
United States District Judge

SO ORDERED

BRETT L. TOLMAN, United States Attorney (#8821)

LYNDA R. KRAUSE, Assistant United States Attorney (#7433)

Attorneys for the United States of America

185 South State Street, Suite 400

Salt Lake City, Utah 84111

Telephone: (801) 524-5682

Facsimile: (801) 524-4475

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH


TED STEWART
United States District Judge

Date 8-24-06

AUG 23 2006

MARKUS B. ZIMMER, CLERK
BY

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	Case No.: 2:04cr00501 TS
	:	Associated with: 2:06cr00520 DS
Plaintiff,	:	
vs.	:	UNITED STATES' MOTION TO
	:	RE-ASSIGN CASE
CESAR LOPEZ-RAMIREZ,	:	
	:	JUDGE TED STEWART
Defendant.	:	

Pursuant to Rule 13 of the Federal Rules of Criminal Procedure and DUCrimR 57-3, the United States of America moves the Court to re-assign Case No. 2:06cr00520 DS, which is currently assigned to Judge Sam, to Judge Stewart. Such re-assignment is appropriate because Case No. 2:06cr00520 DS before Judge Sam involves the same Defendant and is based on the same set of facts as the instant case. See DUCrimR 57-3(a). Specifically, the factual basis for the instant case is Defendant's alleged illegal reentry into the United States;

the factual basis for the indictment in Case No. 2:06cr00520 DS is the same. Re-assignment of Case No. 2:06cr00520 DS to Judge Stewart will allow for a global resolution of both cases which would benefit both the government and defendant.

The United States therefore requests that Case No. 2:06cr00520 DS be re-assigned to Judge Stewart.

Dated this 23rd day of August, 2006.

BRETT L. TOLMAN
United States Attorney

/s/ Lynda R. Krause
LYNDA R. KRAUSE
Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the United States Attorney's Office and that a copy of the foregoing UNITED STATES' MOTION TO RE-ASSIGN CASE was filed electronically and caused to be served this 23rd day of August, 2006 to:

Kris Angelos
46 W. Broadway, Ste. 110
Salt Lake City, Utah 84101

/s/ Brooke Wallace

MODRALL, SPERLING, ROEHL, HARRIS
& SISK, P.A.
Douglas G. Schneebeck
Post Office Box 2168
Bank of America Centre
500 Fourth Street NW, Suite 1000
Albuquerque, NM 87103-2168
Telephone: 505.848.1800

FILED
U.S. DISTRICT COURT

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COURT OF UTAH

BY: DEPUTY CLERK

HOOLE & KING, LC
Lester A. Perry (#2571)
4276 Highland Drive
Salt Lake City, Utah 84124
Telephone: 801.272.7556
Fax: 801.272.7556
Email: lap@hooleking.com

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AUG 18 2006

OFFICE OF
JUDGE TENA CAMPBELL

and

STOEL RIVES LLP
David J. Jordan (#1751)
Marc T. Rasich (#9279)
201 S Main Street, Suite 1100
Salt Lake City, UT 84111
Telephone: (801) 328-3131
Attorneys for Defendants

and

WOOD CRAPO, LLC
Mary Anne Q. Wood
Kathryn O. Balmforth
60 E. South Temple, Suite 500
Salt Lake City, UT 84111
Telephone: (801) 842-6060
Attorneys for Defendants
Michael B. Bennett
and Richard H. DeLoney

and

HORWITZ HORWITZ & ASSOC.
O. Randolph Bragg
25 E. Washington Street, Suite 900
Chicago, IL 60602
Telephone: 312.372.8822

and

MICHAEL D. KINKLEY, P.S.
Michael D. Kinkley
4407 N. Division Street, Suite 914
Spokane, WA 99207
Telephone: 509.484.5611
Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

Lori Perry for and on behalf of herself and
others similarly situated,

Plaintiff,

v.

The Law Offices of Bennett and DeLoney,
P.C., a Professional Corporation; Michael
Bennett; Richard H. DeLoney; John Doe
Owners 1-10; and John Doe Collectors 1-10,

Defendants.

**ORDER GRANTING JOINT MOTION
TO APPROVE DISTRIBUTION
METHODOLOGY
FOR CLASS SETTLEMENT**

Civil No. 2:04CV00434 - tc

Judge Tena Campbell

**CONSOLIDATED WITH: Raymond Brumbelow v. The Law Offices of Bennett & Deloney, P.C., et
al., Cause No. 2:04CV00439; Ashley Whitaker v. The Law Offices of Bennett & DeLoney, P.C., et**

al., Cause No. 2:04CV00168; and Julie Humphreys v. The Law Offices of Bennett & DeLoney, P.C., et al., Cause No. 2:06CV00075.

This matter having come before the Court upon the parties' Joint Motion to Approve Distribution Methodology for Class Settlement, the Court having considered the matters set forth in the motion and otherwise being fully apprised, finds the joint motion is well-taken and should be granted.

IT IS NOW THEREFORE HEREBY ORDERED as follows:

1. The methodology for distribution of the class settlement fund as described in paragraph 3 of the joint motion is hereby adopted, ratified and approved by the Court.
2. Distribution in accord with paragraph 3 of the joint motion shall be made as soon as reasonably practicable without further notice to the Class.


THE HONORABLE TENA CAMPBELL
District Court Judge

APPROVED:

COUNSEL FOR THE CLASS:

HORWITZ HORWITZ & ASSOC.
O. Randolph Bragg
25 E. Washington Street, Suite 900
Chicago, IL 60602
Telephone: 312.372.8822

MICHAEL D. KINKLEY, P.S.
Michael D. Kinkley
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Spokane, WA 99207
Telephone: 509.484.5611

HOOLE & KING, L.C.

By: Approved by email 8/17/06
Lester Perry
4276 South Highland Drive
Salt Lake City, UT 84124

COUNSEL FOR DEFENDANTS:

MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.

By: _____
Douglas G. Schneebeck
Post Office Box 2168
Bank of America Centre
500 Fourth Street NW, Suite 1000
Albuquerque, New Mexico 87103-2168
Telephone: 505.848.1800

**Report and Order Terminating Probation
Prior to Original Expiration Date**

2006 AUG 24 P 3:05 UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

for the

DISTRICT OF UTAH

UNITED STATES OF AMERICA

v. Criminal No. 2:05-CR-00020-001-TC

JAMES KENNETH BOND

On June 28, 2005, the above-named was placed on probation for a period of two years. The defendant has complied with the rules and regulations of probation and is no longer in need of supervision. It is accordingly recommended that the defendant be discharged from supervision.

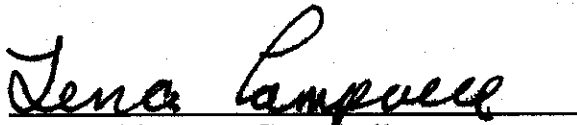
Respectfully submitted,



Richard G. Law
United States Probation Officer

Pursuant to the above report, it is ordered that the defendant be discharged from supervision and that the proceedings in the case be terminated.

Dated this 24 day of August, 2006.



Honorable Tena Campbell
United States District Judge

United States Probation Office
for the District of Utah

Request for Early Termination of Supervision

Name of Offender: **James Kenneth Bond**

Docket Number: **2:05-CR-00020-001-TC**

Name of Sentencing Judicial Officer: **Honorable Tena Campbell**
United States District Judge

RECEIVED

Date of Original Sentence: **June 28, 2005**

AUG 21 2006

Original Offense: **False Statements Related to Health Care Benefit Program**

**CLERK OF
JUDGE TENA CAMPBELL**

Original Sentence: **24 Months Probation**

Type of Supervision: **Probation**

Supervision Began: **June 28, 2005**

SUPERVISION SUMMARY

At this time, the probation office is requesting early termination of probation. The defendant's scheduled expiration date is June 27, 2007. He has paid all financial obligations to the Court in full, maintained monthly contact, and has complied with all other conditions ordered by the Court. Assistant United States Attorney Mark Hirata does not object to an early termination of supervision. If the Court concurs, a Form 35 is attached for signature.

If the Court desires more information or another course of action, please contact me at 535-4252.

I declare under penalty of perjury that the foregoing is true and correct



Richard G. Law
United States Probation Officer
August 18, 2006

Attachment

United States Probation Office
for the District of Utah

Report on Offender Under Supervision

Name of Offender: **Trinity J. Hansen**

Docket Number: **2:05-CR-00160-001-TC**

Name of Sentencing Judicial Officer: **Honorable Tena Campbell**
United States District Judge

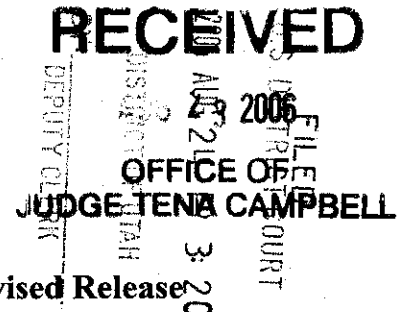
Date of Original Sentence: **December 19, 2005**

Original Offense: **Bank Fraud**

Original Sentence: **8 Months BOP Custody/48 Months Supervised Release**

Type of Supervision: **Supervised Release**

Supervision Began: **August 18, 2006**



SUPERVISION SUMMARY

The United States Probation Office is requesting the Court's permission to change the defendant's treatment provider from Clinical Consultants, as listed in the Judgment and Commitment Order, to a treatment provider offered through the United States Probation Office. Clinical Consultants is located in Ogden, Utah, and the defendant resides in Murray, Utah. Mr. Hansen also indicated that, due to being employed in Salt Lake City, it would be difficult to make the commute to Ogden in time to attend treatment.

If the Court desires more information or another course of action, please contact me at 535-4242.

I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in cursive script, reading "Theresa Del Casale-Merino".

Theresa Del Casale-Merino
United States Probation Officer
August 21, 2006

THE COURT:

- ☒ Approves the request noted above
☐ Denies the request noted above
☐ Other

A handwritten signature in cursive script, reading "Tena Campbell".

Honorable Tena Campbell
United States District Judge

Date: **8-24-2006**

UNITED STATES DISTRICT COURT

CENTRAL DIVISION

District of

UTAH

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

EDWARD TAYLOR WOODGER

FILED IN UNITED STATES DISTRICT

COURT, DISTRICT OF UTAH

Case Number: DUTX 205CR000216

AUG 23 2006

USM Number: 12532-081

MARKUS B. ZIMMER, CLERK

Loren Weiss, Jessica Stengel

BY

Defendant's Attorney

DEPUTY CLERK

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of the Information

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 371	Conspiracy to Defraud the United States		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/21/2006

Date of Imposition of Judgment

Signature of Judge

Ted Stewart

Name of Judge

United States District

Title of Judge

8/23/2006

Date

DEFENDANT: EDWARD TAYLOR WOODGER
CASE NUMBER: DUTX 205CR000216

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

60 months

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: EDWARD TAYLOR WOODGER
CASE NUMBER: DUTX 205CR000216

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

36 months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: EDWARD TAYLOR WOODGER
CASE NUMBER: DUTX 205CR000216

ADDITIONAL SUPERVISED RELEASE TERMS

- 1) The defendant is to inform any employer or prospective employer of his current conviction and supervision status.
- 2) The defendant shall refrain from incurring new credit charges or opening additional lines of credit unless * is in compliance with any established payment schedule and obtains the approval of the probation office.
- 3) The defendant shall provide the probation office access to all requested financial information.
- 4) The defendant shall abide by the following occupational restrictions: * The defendant is prohibited from participating in any manner in the affairs of any federally regulated financial institution. *The defendant shall not have direct or indirect control over the assets or funds of others.
- 5) The defendant shall submit his person, residence, office, or vehicle to a search, conducted by the United States Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.

DEFENDANT: EDWARD TAYLOR WOODGER

CASE NUMBER: DUTX 205CR000216

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$ 2,943,865.00

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
SEE ATTACHED	\$2,943,865.00	\$2,943,865.00	

TOTALS	\$ <u>2,943,865.00</u>	\$ <u>2,943,865.00</u>
--------	------------------------	------------------------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☒ the interest requirement is waived for the ☐ fine ☒ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: EDWARD TAYLOR WOODGER
CASE NUMBER: DUTX 205CR000216

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
Restitution is payable at a rate of \$25/month during incarceration, and at least \$1,000/month upon release.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

EDWARD TAYLOR WOODGER
2:05-CR-000216
RESTITUTION IMPOSED ON 8/21/2006

Victim	Address	Amount
Wayne and Sylvia Bailey	Unknown	\$10,000.00
Nancy Bickert	Unknown	\$16,455.00
Barbara Degner	122 Aspenwood Dr., Port Moody, BC V3H4V7	\$5,000.00
Charles and Betty Drumheller	RR #2, Necopeck, PA 18635	\$20,000.00
Kurt and Rebecca Ewell	2041 W. 5540 S. Bennion, UT 84118	\$42,000.00
Mark and Denese Fischer	Corner of McGary Grade T.N. Julietta Road, Julietta, ID 83535	\$25,000.00
William Fleming	10706 136 th Street E. Puuallup, WA 98374	\$100,000.00
Norman M. Fletcher	7909 48 th Street, Fife, WA 98424	\$140,000.00
Debbie French	Unknown	\$7,560.00
Jerry C. Furnish	2559 S. Co Road, 400 E, Dillsboro, IN 47018	\$110,000.00
Oliver E. Furnish	202 E. Austin St., Versailles, IN 47042	\$40,000.00
Brook and Danette Gardner	320 N. 800 E. Orem, UT 84057	\$41,500.00
Saeed Ghaderi	7745 South Plum Creek Lane, Sandy, UT 84093	\$100,000.00
William and Jeanne Hamilton	813 Tiffany Court, Los Alamos, NM87544	\$20,000.00
Ray and Linda Hart	Unknown	\$11,500.00
Ed Hiebert	Unknown	\$5,500.00

Steven Kohn	13600 Aqua Lane, Rockville, MD 20850	\$122,000.00
Robert J. Long	1224 N. 1150 E. Shelly, ID 83274	\$100,000.00
Bob and Joanne Mackenzie	Unknown	\$55,850.00
James McBride	6 Welch Dr., Ayr, Ontario, Canada NOB1E0	\$20,000.00
Gregory J. McCormick	1917 SW 330 th St., Federal Way, WA 98023	\$71,000.00
Lynda Michelin	PMB 311; 12195 Highway 92, Suite, Woodstock, GA 30188	\$50,000.00
Ben and Lori Owens	HC04 Box 7043-B, Palmer, AK 99645	\$25,000.00
Anna "Nina" Raddatz	120 Breckenridge Court, Hendersonville, NC 28739	\$125,000.00
Blaine Rhea	11015 Francis Ave., Tustin, CA 92782	\$14,000.00
Bryan W. Rowder	14000 E. Ranger Rd., Athol, ID 83801	\$10,000.00
David Sime	746 Willow Glen, El Paso, TX 79922	\$135,00.00
Eldon Sorenson	West 11727 Cheney Plaza Rd, Cheney, WA 99004	\$211,000.00
Harrison Brent Sperry	2855 E. Robidaux, Sandy, UT 84093	\$32,000.00
Ed Sprague	1910 W. Pawnee Lane, Colbert, WA 99005	\$99,000.00
Craig and Karen Stewart	5419 Alta Loma Road, Colorado Springs, CO 80918	\$50,000.00
Cory Weaver	385 N. 500 W. #E, Provo, UT 84601	\$25,000.00
Richard S. Weaver	3350 Mountain Oak Court, Redding, CA 96001	\$30,000.00

Dennis Wiedrich	16255 Whispering Oaks Dr., Ramona, CA 920665	\$62,000.00
Sharon Winters	2773 Manitou Springs Dr., Rio Rancho, NM 87124	\$500,000.00
Ann Woodward (Heirs of)	607 W. Duarte Rd., #303, Arcadia, CA 91007	\$502,500.00
Veronica Young	3287 N. 14 th St., Coeur D'Alene, ID 83815	\$10,000.00
		\$2,943,865.00

Pages 7 - 10

are the

Statement of Reasons,
which will be docketed
separately as a sealed
document

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

UNITED STATES DISTRICT COURT

CENTRAL

District of

UNITED STATES OF AMERICA

V.

Matthew Dean Burgess

JUDGMENT IN A CRIMINAL CASE

(Amended)

Case Number:

UTDX 205CR000591-001

USM Number:

12901-081

Robert L. Steele

Defendant's Attorney

AUG 24 2006
MARKUS B. ZIMMER, CLERK
BY UTAH DEPUTY CLERK

THE DEFENDANT:

☒ pleaded guilty to count(s) 2 of the Indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 USC § 2423(b)	Travel with Intent to Engage in Illicit Sexual Conduct		2

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☒ Count(s) 1 of the Indictment ☒ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

* 8/9/2006

Date of Imposition of Judgment

J. Thomas Greene
Signature of Judge

J. Thomas Greene
Name and Title of Judge

U. S. District Judge

August 23, 2006
Date

DEFENDANT:
CASE NUMBER:

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

30 months

☒ The court makes the following recommendations to the Bureau of Prisons:

FCI near Topeka, KS, with work program, medical assistance & psychiatric services.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ a _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before ~~2 p.m.~~ 12:00 Noon (local time) on
Tuesday, 9/12/2006.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____

DEFENDANT:
CASE NUMBER:

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

60 months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☒ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT:
CASE NUMBER:

SPECIAL CONDITIONS OF SUPERVISION

1. Defendant shall not use or possess any controlled substances.
2. Defendant shall participate in a mental-health treatment program under a copayment plan as directed by the U.S. Probation Office, take any mental-health medications as prescribed, and not possess or consume alcohol, nor frequent businesses where alcohol is the chief item of order, during the course of treatment or medication.
3. Court orders that the presentence report may be released to the state sex-offender registration agency if required for purposes of sex-offender registration.
4. Defendant shall participate in a mental-health &/or sex-offender treatment program as directed by the U.S. Probation Office.
5. Defendant is restricted from visitation with individuals who are under 18 years of age, without adult supervision, as approved by the U.S. Probation Office.
6. Defendant shall abide by the following occupational restrictions: Any employment shall be approved by the U.S. Probation Office. In addition, if third party risks are identified, the U.S. Probation Office is authorized to inform the defendant's employer of his supervision status.
7. Defendant shall not possess or use a computer with access to any online computer service without the prior written approval of the Court. This includes any Internet service provider, bulletin board system, or any other public or private computer network. Any approval by the Court shall be subject to the conditions set by the Court or the U.S. Probation Office.
8. Defendant shall submit his person, residence, office, or vehicle to a search, conducted by the U.S. Probation Office, at a reasonable time & in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
9. Court orders that Evaluation Report of Dr. Huff be attached to the presentence report pursuant to request of defendant's counsel.

DEFENDANT:
CASE NUMBER:

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100	\$ None	\$ None

- ☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$ _____ 0	\$ _____ 0
--------	------------	------------

- ☐ Restitution amount ordered pursuant to plea agreement \$ _____
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT:
CASE NUMBER:

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 7 - 30
are the

Statement of Reasons,
which will be docketed
separately as a sealed
document

BRETT L. TOLMAN, United States Attorney (No. 8821)
JOHN W. HUBER, Assistant United States Attorney (No. 7226)
Attorneys for the United States of America
185 South State Street, Suite 400
Salt Lake City, Utah 84111
Telephone: (801) 524-5682

RECEIVED
AUG 22 2006 FILED
U.S. DISTRICT COURT
OFFICE OF
JUDGE TENA CAMPBELL P 3:22
DISTRICT OF UTAH

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

BY: _____
DEPUTY CLERK

UNITED STATES OF AMERICA,	:	Case No. 2:05 CR 0676 TC
	:	
Plaintiff,	:	FINDINGS OF FACT,
	:	CONCLUSIONS OF LAW AND
v.	:	ORDER IN RE: COMPETENCY AND
	:	INVOLUNTARY MEDICATION
BENJAMIN ARCHULETA,	:	
	:	
Defendant.	:	JUDGE TENA CAMPBELL
	:	

The above-entitled action came on for hearing on August 11, 2006. Defendant was present with counsel, Julie George, and the United States was represented. Having reviewed and fully considered (1) the forensic report (admitted as Exhibit "C") of Jasmine A. Tehrani, PhD; (2) the involuntary medication analysis report (admitted as Exhibit "B") of Jeffrey Watabe, M.D.; (3) the defendant's letter received by the Court on August 8, 2006 (admitted as Exhibit "A"); (4) the full record; (5) the parties' memoranda; (6) testimony and proffer; (7) oral argument; and for good cause showing, the Court enters the following FINDINGS OF FACT and CONCLUSIONS OF LAW:

1. On September 10, 1998, the defendant was charged with threatening the life of a United States District Court Judge in Utah. Upon appearing in court, the defendant was ordered to undergo a competency evaluation which was completed at the Springfield, Missouri facility. Eventually, after competency restoration measures, the court ordered that the defendant was competent to stand trial while on medications. In turn, the parties eventually entered into a stipulation which led to a finding of not guilty by reason of insanity on July 29, 1999. The court committed the defendant for hospitalization following that finding.

2. In that case on November 27, 2000, the defendant was released from hospitalization on prescribed conditions pursuant to 18 U.S.C. § 4246. After the defendant violated those conditions, the court imposed stricter conditions, and released the defendant to a half way house on June 11, 2002. Upon another violation of his conditions, the court revoked the defendant's release and remanded him to the custody of the Bureau of Prisons for continued hospitalization at Springfield. On June 7, 2004, the court ordered a conditional release once again. Eventually, on February 4, 2005, the court terminated supervision of the defendant and closed that case.

3. Within seven months, on September 6, 2005, the United States Marshal Service and ATF learned that the defendant attempted to purchase a firearm from a local pawn shop. The defendant had lied on a required background check form, but was detected before he acquired the firearm. The defendant is a restricted person pursuant to

18 U.S.C. § 922(g)(4), and cannot lawfully possess or attempt to purchase a firearm.

Accordingly, on September 8, 2005, the United States initiated prosecution for a violation of 18 U.S.C. § 922(a)(6), providing false information in the acquisition of a firearm (the present matter). The United States alleges that the defendant had denied his prior mental health commitment when he tried to buy the gun.

4. Immediately upon appearance in court for the new firearms charge, the court ordered that the defendant undergo an evaluation regarding competency to stand trial and his mental state at the time of the offense. Although the evaluator, Dr. Tehrani, eventually determined that the defendant was not competent to stand trial, she could not determine his mental state at the time of the offense as the court had requested.

5. The Court (Magistrate Judge Wells) held a competency hearing on March 28, 2006, and determined that the defendant was not competent to stand trial, and ordered that the defendant be remanded to the BOP for restoration of competency measures; that there be an evaluation of his mental health status at the time of the offense; and that there be a dangerousness to the community assessment.

6. In supplemental proceedings that same day, the Court (District Court Judge Campbell) ordered a specific psychiatric evaluation as to the issue of involuntary medication during the ordered competency restoration hospitalization. The Court ordered that the evaluation be completed locally. Consequently, hospitalization has been delayed pending the Court's involuntary medication determination.

7. On June 14, 2006, the Court noted the completed involuntary medication evaluation and set the matter for hearing on August 11, 2006. Following that hearing, the Court made conclusions of law:

CONCLUSIONS OF LAW

1. The Court finds by a preponderance of the evidence that the defendant is incompetent to stand trial consistent with the reasons and analysis set forth in Dr. Tehrani's March 10, 2006 Report. 18 U.S.C. § 4241(d). The defendant suffers from a mental disease or defect that renders him incompetent to the extent that he is unable to understand the nature and consequences of the court proceedings against him or to assist counsel properly in his defense.

2. Pursuant to the Tenth Circuit's instructions in *United States v. Morrison*, 415 F.3d 1180, 1185 (10th Cir. 2005), the Court initially considers whether involuntary medication may be justified pursuant to the circumstances outlined in *Washington v. Harper*, 494 U.S. 210 (1990). Based upon Dr. Watabe's report and testimony, as well as the government's representations, the Court concludes that there are no *Harper*-type grounds that would warrant involuntary medication. The defendant does not presently pose a substantial risk of harm to himself or others, nor is his health gravely at risk without medication.

3. By clear and convincing evidence, the Court finds that involuntary medication should be ordered during competency restoration hospitalization. *Sell v. United States*,

539 U.S. 166 (2003); *United States v. Bradley*, 417 F.3d 1107 (10th Cir. 2005). The Court's conclusions track the four *Sell* factors, as follows:

A. Important Governmental Interests Are at Stake.

There are important governmental interests at stake in bringing the defendant to trial in this matter. "The Government's interest in bringing to trial an individual accused of a serious crime is important" because "the Government seeks to protect through application of the criminal law the basic human need for security." *Sell*, 539 U.S. at 180-81. Proffered testimony and representations support the conclusion that bringing this case to trial is very important to the United States Attorney's Office, as well as the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The defendant had previously been committed for mental illness as a result of a prosecution for threatening a federal district court judge. After years of supervision in connection with that prosecution, the defendant's supervision eventually terminated. Within seven months of termination, the defendant was discovered by the United States Marshal Service and ATF attempting to unlawfully purchase a firearm by deceit.

The Court concludes that there is a ten year maximum term of imprisonment for the crime with which the defendant is charged, 18 U.S.C. § 924(a)(6), lying and trying to purchase a firearm. Moreover, the Court concludes that if the defendant were convicted of the present offense, a reasonable sentence would be in excess of predicted sentencing guidelines that may apply to the defendant. A longer term sentence would be reasonable

according to the dictates of 18 U.S.C. § 3553(a). Specifically, the Court concludes that the following circumstances would support such a sentence: (1) the defendant has been previously prosecuted for threatening a federal district court judge; (2) he has a past history of assaultive conduct; (3) he has very strong feelings that the government is conspiring against him; (4) the defendant's self-professed reason for trying to obtain the firearm — self-defense — is alarming in and of itself given his circumstances; and (5) the recent letter received by the Court (admitted at the hearing as Exhibit "A") contains provisions that appear threatening in nature and tone. In sum, the charged offense is objectively very serious, and detention pending competency proceedings is not in parity with an expected sentence in the criminal proceeding. Accordingly the government's important interest is not lessened.

In addition, the Court concludes that measures such as civil commitment are not available to the defendant, and consequently the government's interest is not lessened in that respect. According to Dr. Watabe, there is not an "acute", or short term risk of danger associated with the defendant in his present detention circumstances that would support civil commitment. Nevertheless, Dr. Watabe did articulate a "sub-acute" or longer term risk of danger based upon the defendant's past history of violence, threats, drug and alcohol abuse, and the like. These factors actually bolster the government's interest in bringing the case to trial.

B. Involuntary Medication of the Defendant Will Likely Further the Government's Important Interests and Will Be

Unlikely to Have Side Effects that Will Interfere with the Defendant's Right to Assist Trial Counsel in his Defense, Thereby Making the Trial Unfair.

The Court concludes that the defendant will be brought to a requisite level of competency to further the important governmental interests. According to persuasive testimony, the Court concludes that the defendant should return to competency within three to six months from the beginning of treatment. Moreover, such treatment is substantially unlikely to result in side effects that would interfere with trial. With new generations of antipsychotic medication, side effects have been substantially reduced. Moreover, the defendant has a significant personal history with the proposed medications, and has not experienced any of the side effects that concern high courts relative to this *Sell* factor. In sum, there is no evidence whatsoever that the defendant will suffer side effects that will interfere with the defendant's right to assist trial counsel in his defense, or make the trial unfair.

C. Involuntary Medication Is Necessary to Further the Government's Interest, Meaning No Other Less Intrusive Means Will Achieve Substantially the Same Results.

The Court concludes that there are no other less intrusive means available to restore competency and further the important government interest in trying the case. According to the clear testimony of Dr. Watabe, there are no treatment options available other than the prescribed use of antipsychotic medication. Such medication is the gold standard of mental health care for patients in similar circumstances to the defendant.

D. Administration of Antipsychotic Drugs is Medically Appropriate, or in the Best Interest of the Defendant Given his Current Medical Condition.

The Court concludes that without medication, the defendant's mental health condition will worsen. As stated above, antipsychotic medication is the primary treatment plan for the type of mental illness suffered by the defendant. Historically, he has responded well to antipsychotic medication, and the Court concludes that his mental illness needs to be addressed through medications. Any health side effects, such as aggravation of diabetes, are medically treatable and such treatments are commonplace and successful in this area of medical practice.

ORDER

Having made its FINDINGS OF FACT and CONCLUSIONS OF LAW, the Court
ORDERS that:

1. The government's motion for hospitalization to restore competency is granted, pursuant to 18 U.S.C. § 4241(d).
2. The Bureau of Prisons (BOP) shall utilize involuntary medication during hospitalization as medically prescribed, consistent with this Order.
3. BOP shall hospitalize and house the defendant at its facility in Springfield, Missouri. BOP shall immediately address with the Court any intended or foreseeable deviation from this provision of the order.
4. The defendant shall remain in Davis County Jail (Utah) in United States Marshall Service custody pending the outcome of any appeal that the defendant may lodge relating to this order.

Dated this 25 day of August, 2006.

BY THE COURT:



Tena Campbell
DISTRICT COURT JUDGE

APPROVED AS TO FORM:

Julie George, Attorney for Defendant

ORDER

Having made its FINDINGS OF FACT and CONCLUSIONS OF LAW, the Court

ORDERS that:

1. The government's motion for hospitalization to restore competency is granted, pursuant to 18 U.S.C. § 4241(d).
2. The Bureau of Prisons (BOP) shall utilize involuntary medication during hospitalization as medically prescribed, consistent with this Order.
3. BOP shall hospitalize and house the defendant at its facility in Springfield, Missouri. BOP shall immediately address with the Court any intended or foreseeable deviation from this provision of the order.
4. The defendant shall remain in Davis County Jail (Utah) in United States Marshall Service custody pending the outcome of any appeal that the defendant may lodge relating to this order.

Dated this ____ day of _____, 2006.

BY THE COURT:

Tena Campbell
DISTRICT COURT JUDGE

APPROVED AS TO FORM:


Julie George, Attorney for Defendant

JERROLD S. JENSEN (#1678)
Assistant Attorney General
MARK L. SHURTLEFF (#4666)
Attorney General
Attorneys For Defendants
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, Utah 84114-0857
Telephone: (801) 366-0353

FILED
U.S. DISTRICT COURT
2006 AUG 25 P 1:39
DISTRICT OF UTAH
BY: DEPUTY CLERK

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

THE KING'S ENGLISH, INC., et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	STIPULATED ORDER
	)	(Including Preliminary Injunction)
)	
MARK SHURTLEFF, In his official capacity	)	Civil No. 2:05CV00485 DB
as ATTORNEY GENERAL OF THE STATE)	
OF UTAH, et al.,	)	Judge Dee Benson
)	
Defendants.)	

The Plaintiffs and Defendants have agreed to (1) the entry of a stipulated preliminary injunction barring the enforcement of the challenged portions of House Bill 260 passed during the 2005 General Session of the Utah State Legislature, as well as certain related portions of §76-10-1206, and (2) the staying of all discovery in the current case pending the submission of a bill amending HB 260 in the 2007 General Session of the State Legislature. Therefore, the Court hereby enters the following stipulated order.

This Court hereby orders that:

1. Even though Plaintiffs are prepared to proceed with discovery as planned, and have served full sets of discovery requests on Defendants as of July 5, 2006, discovery is hereby stayed pending the conclusion of the 2007 General Session of the Utah State Legislature.

2. No later than November 1, 2006, Defendants shall submit to Plaintiffs a draft of the proposed amendments to HB 260 along with an indication by the sponsor of the amendments that he intends to introduce the amendments at the start of the 2007 Legislative Session.

3. In the event Defendants do not submit to Plaintiffs a draft of the proposed amendments and an indication by the sponsor that he intends to introduce the same in the 2007 Legislative Session, this stay on discovery shall be lifted and discovery responses shall be due by November 30, 2006.

4. If the draft amendments are submitted to Plaintiffs by November 1, 2006, Plaintiffs shall respond to Defendants by December 1, 2006, as to what issues are inadequately addressed in the draft amendments and the parties shall proceed with discovery on those issues, to be completed by April 1, 2007.

5. Defendants, and all persons acting under their direction or control, are preliminarily enjoined from enforcing, prosecuting, investigating or reviewing any matter based on:

- a) the statutes created or changed by Sections 2 and 4-9 of House Bill 260 (2005); and
- b) Utah Criminal Code § 76-10-1206 (as amended by House Bill 260) against any person or entity with respect to harmful to minors material which is communicated, distributed or transmitted electronically, except when the material is intended to be, and is, communicated, distributed or transmitted to one or more specific identifiable persons actually known to the communicator, distributor or transmitter to be minors.

6. Pursuant to Rule 65(c) of the Federal Rules of Civil Procedure, Plaintiffs need not post a bond in connection with this injunction, which is in effect immediately.

7. This injunction, which supersedes the outstanding order of non-enforcement dated November 28, 2005, will remain in full force and effect until the final judgment of this Court, or further order of this Court, whichever comes soonest.

Dated this 25th day of August, 2006.

BY THE COURT:

A handwritten signature in cursive script that reads "Dee Benson". The signature is written in dark ink and is positioned above a horizontal line.

HONORABLE DEE BENSON

Approved as to form:

/s/ Zachary J. Weyher
HOWREY LLP
by Zachary J. Weyher
Attorneys for Plaintiffs

Utah Attorney General's Office

/s/ Jerrold S. Jensen
by Jerrold S. Jensen
Attorney for Defendants

CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing proposed Stipulated Order was served by electronically filing the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

HOWREY LLP
Attorneys for Plaintiffs
Wesley D. Felix, e-filer

AMERICAN CIVIL LIBERTIES UNION OF UTAH FOUNDATION, INC.
Attorneys for Plaintiffs
Margaret D. Plane, e-filer

CENTER FOR DEMOCRACY & TECHNOLOGY
Attorneys for Plaintiffs
John B. Morris, e-filer

SONNENSCHN NATH AND ROSENTHAL LLP
Attorneys for Plaintiffs
Michael A. Bamberger, e-filer

/s/ Peni Cox

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

FILED
U.S. DISTRICT COURT
2006 AUG 25 P 1:39

RONALD M. WOODWARD,

Plaintiff,

vs.

SALT LAKE CITY NARCOTIC SWAT
TEAM and JUDGE ANN BOYDEN,

Defendants.

DISTRICT OF UTAH

BY: DEPUTY CLERK

ORDER OF REFERENCE

Case No. 2:05-CV-748

Judge Dee V. Benson

IT IS ORDERED that, as authorized by 28 U.S.C. § 636(b)(1)(A) and the rules of this Court, the above entitled case is referred to Magistrate Judge David Nuffer. The magistrate judge is directed to hear and determine any nondispositive pretrial matters pending before the Court.

DATED this 25th day of August, 2006.


BY THE COURT:



DEE BENSON
United States District Judge

Dated this 25th day of August, 2006.

UNITED STATES DISTRICT COURT



Judge Dee Benson

CERTIFICATE OF SERVICE

I certify that on August 23, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which sent notification of such filing to the following:

Earl D. Tanner
Tanner & Tanner
68 South Main Street, 8th Floor
Salt Lake City, Utah 84101-1504

William P. Morrison
Grant W. P. Morrison
Morrison & Morrison, L.C.
352 East 900 South
Salt Lake City, UT 84111

and I hereby certify that I have mailed by U.S. Postal Service the document to the following non-CM/ECF participants:

Craig Zollinger
50 W Broadway, Suite 2000
Salt Lake City, Utah 84101-2024

/s/ Cheryl L. Newmark
Cheryl L. Newmark

3592678_1.DOC

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 23 2006

BY MARKUS B. ZIMMER, CLERK
UTAH DEPUTY CLERK

UNITED STATES DISTRICT COURT

CENTRAL DIVISION

District of

UNITED STATES OF AMERICA

V.

MICHAEL EUGENE WORKMAN

JUDGMENT IN A CRIMINAL CASE

Case Number: DUTX 206CR000074-001

USM Number: 13297-081

Wendy Lewis

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 14, and 32-33 of the Indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §1344	Bank Fraud		14
18 U.S.C. §1028A	Aggravated Identity Theft		32, 33

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☒ Count(s) 1013, 15-31, and 34-35 ☐ is ☒ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/21/2006

Date of Imposition of Judgment

Signature of Judge

Ted Stewart

Name of Judge

United States District

Title of Judge

8/22/2006

Date

DEFENDANT: MICHAEL EUGENE WORKMAN
CASE NUMBER: DUTX 206CR000074-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

57 months (33 months for Count 14; and 24 months for Counts 32 & 33 to run concurrently to each other, but consecutively to Count 14)

☒ The court makes the following recommendations to the Bureau of Prisons:

1. Participation in RDAP Program.
2. Incarceration in Tucson, AZ facility (or a facility close to UT)

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: MICHAEL EUGENE WORKMAN
CASE NUMBER: DUTX 206CR000074-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

36 months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

• DEFENDANT: MICHAEL EUGENE WORKMAN
CASE NUMBER: DUTX 206CR000074-001

ADDITIONAL SUPERVISED RELEASE TERMS

- 1) The defendant shall maintain full-time verifiable employment or participate in academic or vocational development throughout the term of supervision as deemed appropriate by the probation office.
- 2) The defendant is to inform any employer or prospective employer of his current conviction and supervision status.
- 3) The defendant shall abide by the following occupational restrictions: The defendant shall not have direct or indirect control over the assets or funds of others.
- 4) The defendant shall refrain from incurring new credit charges or opening additional lines of credit unless he is in compliance with any established payment schedule and obtains the approval of the probation office.
- 5) The defendant shall provide the probation office access to all requested financial information.
- 6) The defendant will submit to drug/alcohol testing as directed by the probation office, and pay a one-time \$115 fee to partially defer the costs of collection and testing.
- 7) The defendant shall participate in drug and/or alcohol abuse treatment under a copayment plan as directed by the United States Probation Office and shall not possess or consume alcohol during the course of treatment, nor frequent businesses where alcohol is the chief item of order.

DEFENDANT: MICHAEL EUGENE WORKMAN

CASE NUMBER: DUTX 206CR000074-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 300.00	\$	\$ 2,361.85

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Fast Stop c/o Sandar Y. Ishaq 809 - 28th Street Ogden, UT 84401	\$1,519.08	\$1,519.08	
Randy & Valerie Lythgoe c/o Strategic Planning Group 3980 Washington Blvd. Ogden, UT 84403	\$842.77	\$842.77	

TOTALS	\$ <u>2,361.85</u>	\$ <u>2,361.85</u>
--------	--------------------	--------------------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☒ the interest requirement is waived for the ☐ fine ☒ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: MICHAEL EUGENE WORKMAN

CASE NUMBER: DUTX 206CR000074-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 300.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
- Restitution in the amount of \$2,361.85 is due immediately and payable at a rate of \$100/month upon release from incarceration.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 7 - 10

are the

Statement of Reasons,
which will be docketed
separately as a sealed
document

FILED
U.S. DISTRICT COURT

2006 AUG 25 A 10:45

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH – CENTRAL DIVISION

DISTRICT OF UTAH
BY: DEPUTY CLERK

THE UNITED STATES OF AMERICA

Plaintiff,

vs.

JESSICA ROBINSON,

Defendant.

**ORDER GRANTING MOTION FOR
WITHDRAWAL OF COUNSEL**

Case No. 2:06cr149

Judge Dee Benson

Randall C. Allen, having moved to withdraw as counsel and having shown good cause, may withdraw as counsel of record for the above-named Defendant in the case described above and is removed from the service list of the same.

IT IS SO ORDERED.

DATED this 25th day of August, 2006.



Dee Benson
United States District Judge

SO ORDERED

BRETT L. TOLMAN, United States Attorney (#8821)

LYNDA R. KRAUSE, Assistant United States Attorney (#7439)

Attorneys for the United States of America

185 South State Street, Suite 400

Salt Lake City, Utah 84111

Telephone: (801) 524-5682

Facsimile: (801) 524-4475

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH


TED STEWART
United States District Judge

Date 8-24-06

AUG 23 2006

BY **MARKUS B. ZIMMER, CLERK**

~~DEPUTY CLERK~~

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	Case No.: 2:04cr00501 TS
	:	Associated with: 2:06cr00520 DS
Plaintiff,	:	
vs.	:	UNITED STATES' MOTION TO
	:	RE-ASSIGN CASE
CESAR LOPEZ-RAMIREZ,	:	
	:	JUDGE TED STEWART
Defendant.	:	

Pursuant to Rule 13 of the Federal Rules of Criminal Procedure and DUCrimR 57-3, the United States of America moves the Court to re-assign Case No. 2:06cr00520 DS, which is currently assigned to Judge Sam, to Judge Stewart. Such re-assignment is appropriate because Case No. 2:06cr00520 DS before Judge Sam involves the same Defendant and is based on the same set of facts as the instant case. See DUCrimR 57-3(a). Specifically, the factual basis for the instant case is Defendant's alleged illegal reentry into the United States;

the factual basis for the indictment in Case No. 2:06cr00520 DS is the same. Re-assignment of Case No. 2:06cr00520 DS to Judge Stewart will allow for a global resolution of both cases which would benefit both the government and defendant.

The United States therefore requests that Case No. 2:06cr00520 DS be re-assigned to Judge Stewart.

Dated this 23rd day of August, 2006.

BRETT L. TOLMAN
United States Attorney

/s/ Lynda R. Krause
LYNDA R. KRAUSE
Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the United States Attorney's Office and that a copy of the foregoing UNITED STATES' MOTION TO RE-ASSIGN CASE was filed electronically and caused to be served this 23rd day of August, 2006 to:

Kris Angelos
46 W. Broadway, Ste. 110
Salt Lake City, Utah 84101

/s/ Brooke Wallace

FILED
U.S. DISTRICT COURT

RECEIVED

2006 AUG 24 P 3: 20

AUG 23 2006

DISTRICT OF UTAH OFFICE OF
JUDGE TENA CAMPBELL

BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LUIS ALFONSO HERRERA-
CASTELLANOS,

Defendant.

: Case No.: 2:02cr00259 TC
: ~~2:06cr00552~~ PGC

: ORDER FOR MOTION TO RE-
: ASSIGN CASE

: JUDGE TENA CAMPBELL

Based on the United States' motion, and good cause appearing, this Court
orders the clerk's office to re-assign Case No. 2:06cr00552 PGC to Judge Campbell.

✓ IT IS SO ORDERED.

Dated this 24 day of August, 2006.

Tena Campbell
TENA CAMPBELL

District Court Judge _____

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JACK A. ROBINSON,

Defendant.

**ORDER GRANTING MOTION TO
WITHDRAW AS COUNSEL**

Case No. 2:06-CR-575 TS

Chief Magistrate Judge Samuel Alba

This matter has been reviewed by the Court on a Motion to Withdraw as Counsel filed by JAMIE ZENGER, Attorney for Defendant; the Court being fully advised and good cause appearing, IT IS HEREBY ORDERED:

JAMIE ZENGER, Assistant Federal Defender, is hereby granted leave to withdraw as counsel of record for Defendant.

Dated this 25th day of August, 2006.

BY THE COURT:



SAMUEL ALBA
United States Chief Magistrate Judge

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

AUG 23 2006
MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

JOHN BENSON,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

ORDER

Case No. 2:06-CV-0651

Related to: 2:98-CR-0197

Before the Court is Petitioner's motion, pursuant to 28 U.S.C. § 2255, to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. The Court ORDERS the United States Attorney to respond to the motion within forty-five (45) days of the date of this Order.

IT IS SO ORDERED.

DATED this 22nd day of August, 2006.



Dee Benson
United States District Judge

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

FILED
U.S. DISTRICT COURT

United States District Court		District
Name (under which you were convicted): <u>John Benson</u>		Docket or Case No.: <u>06912-081</u>
Place of Confinement: <u>FCI Petersburg</u>		Prisoner No.: <u>06912-081</u>
UNITED STATES OF AMERICA		Movant (include name under which you were convicted) <u>John Benson</u>

MOTION

- Name and location of court that entered the judgment of conviction you are challenging: United States District Court, District of Utah, 350 South Main Street, Salt Lake City, Utah
 - Criminal docket or case number (if you know): 2:98-CR-0197-002 DB
- Date of the judgment of conviction (if you know): Judgment date Oct 7, 2003
 - Date of sentencing: _____
- Length of sentence: 72 months
- Nature of crime (all counts): 1 count of 18 USC § 371 Conspiracy, and 69 counts of 26 USC § 7422, Aiding and Assisting Preparation of False Tax Returns
- What was your plea? (Check one)

(1) Not guilty ☒
(2) Guilty ☐
(3) Nolo contendere (no contest) ☐
 - If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to? _____
- If you went to trial, what kind of trial did you have? (Check one)

Jury ☒
Judge only ☐

Judge Dee Benson
DECK TYPE: Civil
DATE STAMP: 08/07/2006 @ 15:23:12
CASE NUMBER: 2:06CV00651 DB

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☒ No ☐
8. Did you appeal from the judgment of conviction? Yes ☒ No ☐
9. If you did appeal, answer the following:

- (a) Name of court: Tenth Circuit Court of Appeals
- (b) Docket or case number (if you know): No. 03-4249
- (c) Result: Judgment was affirmed
- (d) Date of result (if you know): May 5, 2005
- (e) Citation to the case (if you know): _____
- (f) Grounds raised: (1) Good Faith defense that 26 USC § 7422 and United States Check v. United States, 498 U.S. 192, 201 (1991) secure the right to pay a tax and then, knowingly advocate the hanging and the hence common understanding of the tax law without peril to ones liberty
- (g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If "Yes," answer the following:

- (1) Docket or case number (if you know): _____
- (2) Result: _____
- (3) Date of result (if you know): _____
- (4) Citation to the case (if you know): _____
- (5) Grounds raised: _____
- _____
- _____
- _____
- _____
- _____

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: _____
- (2) Docket or case number (if you know): _____
- (3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: _____

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: I am being held in violation of the constitution because becaus - See Continuation

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Page 15

Base on my understanding from studying holdings of the Supreme Court, statutes, regulations, and various old English authorities I taught at the Association de Libertés Politically Free By Birth (ADL) seminar: Constitutional History & Internal Revenue Law, A Study In Law And Citizenship (Seminar), the following:

- Noting First that I have had no access to the record here in - Continued on page 15

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: I believe the issue in this ground was touched on in the appeal Continued on page 32

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND TWO: I am being held in violation of
the laws of the United States (Continued on page 40)

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The facts stated in ground one are
incorporated herein by reference.

This issue was raised in several pretrial
motions filed by me and my co-defendants
Ambert, Lewis, and stay that I joined,
but which I can not specifically cite
because I do not have access to the
voluminous record (Continued on page 40)

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: I incorporate the reasons stated in ground one

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND THREE: The court has no subject matter jurisdiction - Continued on page 41

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The facts stated in grounds one and two are incorporated herein.

The government alleged 26 USC § 7206(2) grant jurisdiction in this case.

This was duly challenged by me and co-defendants, Amberly Lewis, and Shay in various pretrial motions.

To support its claim the prosecution cited two fairly current cases.
-Continued on page 41

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: I incorporate the reasons state in grounds one and two.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND FOUR: There is insufficient evidence to prove an essential - Continued on page 43

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The fact in grounds one, two, and three are incorporated herein.

As I remember the trial there was no evidence presented to show that Defendants or claimants tried to deceive the Secretary to believe that they were foreigners, or that

Continued on page 43

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: The

same reason as stated in
grounds one, two, three and four

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____
- _____
- _____
- _____
- _____

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Robert Buckner, Salt Lake City, UT

(b) At arraignment and plea: _____

(c) At trial: None

(d) At sentencing: Ben Hamilton, Salt Lake City, UT

(e) On appeal: Ben Hamilton, Salt Lake
City, UT

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.* _____

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief: The conviction be vacated and case dismissed with prejudice forthwith.
 or any other relief to which movant may be entitled.

 Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on Aug. 3, 2006 (month, date, year).

Executed (signed) on Aug 3, 2006 (date).

John Benson
 Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion. _____

Ground One; 9(F) Continuation:
 if they were not found at merit.
 (2) Denial of ~~pre~~ trial motion to
 dismiss should have been granted ~~because~~
 because The government's
 construction of 26 USC § 7206(2)
 violates ~~can~~ right of petition
 and the holding in Cheek, supra,
 and (3) challenged district court
 mandatory enhancement of
 my sentence.

Ground one Continuation to

Ground: The acts alleged to be a crime were the exercise of a fundamental right fully vested long antecedent to the constitution by the first principal and right essential to the rule of law and the common law: the right to challenge the law and facts on which any party, not excluding the government, bases your alleged civil liability, not excluding a tax, and litigate it in a neutral civil forum, without peril to ones liberty, and this is secured by the due process, speech, assembly, ~~and~~ petition clauses, and the Seventh Amendment.

(a) Supporting Facts (Continued)

prison, but I will cite below where, as I remember all these facts are set forth in the record.

(1) Lamentably the founders and reconstructionists refused to recognize and constitutionally secure to black Americans the

same unalienable rights and citizenship as white americans.

(2) Liability to the Federal income tax in the main is a requirement incident to the condition of voluntary servitude inherent to Fourteenth amendment citizenship and the filing of a Form 1040 return.

(3) The constitution as ratified in 1789 recognized that black americans, whether free or not, were not and could not be citizens of the states or the United States; they had no civil or political rights either as unalienable endowments of God, or grants of government; and were completely subject to the jurisdiction or governance of the sovereign white citizens, as things, the objects of their property, and not persons; which was a condition of

involuntary servitude inherent to the circumstance or fact of their race.

(4) This was the condition in which the thirteenth amendment found them; and it left them free from the American variety of slavery — where a man had no rights against any person — and from involuntary servitude, the old Anglo-American feudal law variety of slavery — where a man was rightless only to his lord but to all others could have equal rights — however, it left him in voluntary servitude — The same condition as involuntary, except he can walk away from it at his pleasure by returning to his lord what he received ~~from~~ in exchange for his servitude.

(5) This is where the fourteenth amendment found them.

It secured to them citizenship in the United States and the state in which they reside, civil rights, and protection of the same from the deprivation of the states, as grants of government. It secured no political rights and no unalienable rights, civil or political. However, its ~~subjection~~ clause, the opposite side side to the feudal law allegiance equation, requires that to qualify for what it secures one must be in the condition of voluntary servitude - not merely subject in some degree or manner but completely subject to the political jurisdiction of the United States owing them direct and immediate allegiance. Thus, such citizens are liege men in the condition of voluntary servitude to the government as their liege lord

and Congress may and has imposed liability to the federal income tax on them as a condition incident to their servitude, And all who choose to enjoy its benefits as a citizen or resident alien do it voluntarily, as they may walk away at their pleasure,

(b) Conversely, white citizens neither needed, nor received anything from the thirteenth or fourteenth amendments. Further, they owe none of their fundamental rights to the constitution or the government it erects. Sovereignty, the right to govern themselves, is among the unalienable rights granted to them by God. By it they ordained and established their states and are the sovereign citizens thereof. As such they jointly with all the sovereign

Citizens of the several states ordained and established the constitution for the United States of America; and by it erected a government to better secure their unalienable rights; and ~~by~~ prescribed carefully the limits of its powers, not excluding its power to tax them; and owing to it only loyalty to their constitutional contract and allegiance to none but their Creator, who holds them personally accountable to Him. And neither it, nor any of its amendments give Congress the power to lay and collect a tax directly on them or their property other than by the rule of apportionment.

(7) Congress in Title 26 and the Secretary in his regulations respect this limitation. However,

Congress has provided sovereign white citizens may volunteer into the condition of servitude and liability to The Federal income tax as a condition incident thereto, and The Secretary has provided that they may do so simply by filing a Form 1040 return, the true nature of which is a statute staple contract or deed, and not just to the tax but to all the provisions of IRC, e.g. penalties, interest, and reporting requirements. Therefore, the Secretary never alleges an act of Congress mandates an income tax liability he is alleging. He always alleges it is a Form 1040 type of tax liability but once you are liable he always cites the section of the IRC he alleges imposes a penalty

or interest or other requirement

(8) In the feudal law those in the condition of servitude were real property of their lord and the statute staple is a deed to the debtor's lands, goods, and body upon default and all could be summarily seized; the goods and production of the lands sold to satisfy the debt, penalties and interest, and the body held until the debt was fully satisfied. Thus, the lien in 26 USC § 6321 is more than a lien, it is title on the taxpayer personally and all his property or interest in property and this is why it is recorded in the real property records of the county. It is also why the regular Form 1040 return bears the title "U.S. Individual Income Tax

page 24

Return" because it is for those who are real property wth the United States. This is clearly shown by the title to the Form 1040 regular on the Secretary's application for an Office of Management and Budget number for it's: Treatment of Gain derived from the disposition of certain natural resource recapture property. The individual by volunteering into the condition of servitude becomes the natural resource property; the money derived from the sale of his labor, and possession's production is the recapture property; and the Form 1040 is to determine what portion it has allowed the taxpayer and the portion the government wants.

(9) For a person to volunteer to this condition of servitude it is not necessary

for him to literally file a Form 1040 return. If it is confirmed he intended to do so that is sufficient.

(10) However, because this must be a voluntary condition the Secretary has provided that without his consent a person may revoke a Form 1040 return Statute staple election within a prescribed statute of limitation and receive a refund of all he had paid as such a tax.

(11) Therefore, sovereign white citizens who had not volunteered into this condition of servitude by filing a Form 1040 return or who had ~~had~~ filed one but who had duly revoked it were alien to the fourteenth amendment citizenship and were not resident within this condition of servitude and Congress considered

them to be nonresident aliens
 to this servitude and the
 income tax it imposes as a
 condition incident to it, And
 the Secretary prescribed
 those who had paid money as
 such a tax but not filed a
 Form 1040 should make a
 claim for refund on a Form
 1040 NR and those who had
 filed a Form 1040 should
 request a claim for refund on
 a Form 1040X, amended
 return and support it with
 a Form 1040 NR attached to it.

(12) Therefore, I concluded
 that as a matter of law sovereign
 white citizens are for purposes of
 the income tax considered by
 Congress: (1) nonresident aliens, (2)
 whose income is not subject to that
 tax, and (3) are entitled to a
 refund of all they have paid as
 such a tax, and (4) they should

page 27

make a claim for refund on a Form 1040 NR when they had not previously filed a regular Form 1040 and when they had they should file a Form 1040 X with an attached Form 1040 NR in support thereof.

(13) I also taught, because I had learned from Mr. Jim Cochran (spelling uncertain) who for years had been explaining the particulars of such claims, that the Secretary routinely refunded all they had paid as such taxes, provided the form was properly filed out. Among which is that when the Secretary asks for ones social security or TIN and the street ~~and~~ address and city and state address he is asking for a num-ident and res-ident markers for a person different from your proper person as a sovereign citizen

page 28

and if you supply them it makes the claim frivolous, because you are asking for a refund as a unimpaired sovereign citizen but showing num-ident or res-ident markers of something else. Of course, a foreigner who for part of the year was a nonresident alien and part a resident ~~with~~ ^{may} for the resident part have both markers. And the form provides another block where one may put the address of his domicile within the territorial limits of the United States but not resident within its jurisdiction to impose the income tax. And the social security number as such is shown on the W-2 and 1099 forms that should be filed with the claim.

Claimants in counts two through seventy had all fully

reported their income and paid the taxes owed as though they were liable to the income tax, and for the majority of the years filed a regular Form 1040 return before they attended an ADL seminar. Subsequently, they duly made their claims for refund based on defendant's conclusions of law. To their regular Form 1040, the 1040X or Form 1040 NR they filed they attached W-2 or 1099 forms reporting all their income, the taxes withheld, their social security number, name, address, and the company or person in the United States who paid them and withheld and paid over to the IRS the taxes withheld for the alleged tax liability.

Subsequently defendant Benson and his five of his associates in ADL were indicted

under 26 USC § 7206(2) For aiding and assisting claimants in counts two through seven in filing false and fraudulent claims for refund and one count of conspiring to do so under 28 USC § 371. The only thing it alleged was false and fraudulent was the ~~three~~ three conclusions of law: (1) They were nonresident aliens, (2) They had no taxable income, and (3) They were entitled to a refund, when defendants knew that they were not nonresident aliens, they had taxable income, and they were not entitled to a refund.

During the trial all of my teachings stated above, to the best of my remembrance, were put into evidence in the AOL seminar manual and memorandum of DOT's counsel respecting the Secretary's policy to pay all nonresident alien

page 31

claims for refund filed by those
he knew were citizens of
the United States, and the
section of his Internal Revenue
Manual requiring the social
security number issued to them
as citizens be confirmed,
~~were~~ introduced by me; and
in the affidavit respecting
citizenship to be ~~filed~~ ^{recorded} by ADH
students in the county ~~clerk's~~
recorders real property records,
if they determined by their
own free will that they agreed
with it, and the ADH intro-
ductory video, and in the testi-
mony of the government's
informant (GI) and Mrs. Some,
~~the IRS~~ its witness from the
IRS Philadelphia service center,
introduced by the government,
and in the testimony of defen-
dant Ambort and myself.

And to my remembrance

they are in the case record in greater detail in the pretrial motions and hearings, which among other things includes the the video of the Fall ADL seminar claimants attended and my legal arguments in, in pretrial hearings before judge Stewart that denying claimants right to a civil forum to challenge an alleged tax liability without peril to ones liberty violates the rule of law; and that the true nature of the Form 1040 return is a statute staple contract and claimants liability to the alleged tax was found on it and not by a mandate of Congress.

(b)(2) Did you raise the issue Continued from page 5:

because that was the point of the portion of the material he was citing and arguing the

Cheek v. United States, 498 U.S. 192, (1991) stood for.

To the extent this issue was not raised on appeal the following is the reason it was not.

I requested court appointed counsel for sentencing because I knew nothing about those procedures and was assigned Mr. Ben Hamilton.

One of the first things I ask him was how familiar he was with tax law and he replied he knew nothing about it, he was a defense attorney.

When I requested counsel I told the court I only wanted him to represent me at sentencing because I wanted to do my own appeal.

After sentencing Mr. Hamilton advised me that by rule of the Tenth Circuit he was my counsel for appeal until the court gave

page 34

him permission to withdraw.

However, between trial and sentencing my eye sight had deteriorated, due to my diabetic retinopathy to where I could not see well enough to read and be able to prepare my appeal.

Therefore, I did not request or ask Mr. Hamilton to request the court allow him to withdraw.

During the prescribed time for my appeal and soon after I got to prison my eye sight worsened and I had a vitrectomy and an accompanying laser surgery on my left eye but I remain blind in it; and I had the same procedures three times on my right, and in two of them an accompanying surgery to attach a detached retina. and has left me with very limited vision in it.

on or about May 2, 2005,

page 35

Three days before May 5, 2005, the day the Tenth Circuit denied my appeal I was finally able to be tested and prescribed glasses. However, to be able to read most print the optometrist prescribed a four power magnifying glass. However, the prison did not provide it until on or about May 5, 2006.

Now I can see well enough to read and write to prepare my appeal, but I do not see well enough to type it. It took me two days to type the caption of this case and three one page documents respecting service of my handwritten motion to continue time to file my 2255 motion and they were of poor quality. That is why this motion is in handwriting. Plus the BOP rates will not allow you

page 36

to pay an inmate to type it for you and I have had no volunteers ~~and~~ and because I have not heard from the court about my motion for a continuance I have not had the time to get this motion prepared in rough form and send it to my family to have it typed.

Though I could not see and I was sent over eighteen hundred miles from home, so my attorney could not visit me and the unit manager refused me the right to call my attorney on an unmonitored line, except for one fifteen minute call, if I could prove the need, I did call my attorney and advise him of this issue and the issues in grounds ^{five} and six but he showed no interest.

page 37

Before sentencing I gave him a paper of about fifty pages respecting the issue of the true nature of a Form 1040 return and that it is a voluntary election to liability ~~to~~ to the income and it is not imposed by mandate of Congress raised in ground five and ground six and tried to get him to present it at sentencing to prove the same as a mitigation statement but he would not. And advised me not to because it would make the judge mad and cause him to give a heavier sentence. I had prepared this paper in rough form before trial and need to be at least edited before filing and I could not see well enough to do it, so I did not file it as a mitigation statement.

About the only other

comment he made on the paper was the rhetorical question: what difference does it make if the IRS states the statute that imposed the tax?

Thus, by his own admission he did not know the tax law, and he did not take the time to acquaint himself with issues of law involved in the case, even though they are dead bang winners. For if the prosecution's construction of § 7206(2) is unconstitutional, it can not be a valid law; I am innocent of any crime; it was a miscarriage of justice to prosecute me; and no criminal punishment is fundamentally fair.

In my brief in support of this motion I cite an abundance of Supreme Court holdings to support this issue in language more direct, powerful, and clearer than

Cheek, supra, the only case he cites in my appeal, and he only has that because it was cited through out the case.

Accordingly, counsel was advised of the issues of law in this ground by me, a layman, and did not take the time to research the authorities to support it, which a half blind layman can find in a woefully deficient law library in prison. This is a glaring ineffective assistance of counsel.

Ground Two: - Continued
 because advocating conclusions
 of law on a claim for refund
 knowingly challenging the
 common understanding of the
 tax law, after fully paying the
 tax according to it, is a fundamen-
 tal expressly authorized by
 26 USC § 7422, 28 USC §§ 1346 (2)
 (1) and 2072, and the Federal
 rules of civil procedures Rule 11,
 26 USC § 7206 (2) can not consti-
 tutionally make it a crime,
 and read in context with these
 other Code sections and their
 implementing regulations, as
 it must be, it does not.

in this case, except to dismiss because it has no merits. The prosecution alleged that 26 USC § 7206(2) provides but because it was duly challenged by me and my co-defendants Ambort, Lewis, and Stay in pretrial motions the prosecution had the burden to prove by a substantial showing § 7206(2) conveys it and to do so it must show it comports to a process in England and the American States in 1789 because due process requires it, and it has made no such showing.

(b) Supporting facts - Continued from page 8

however, in neither had the income been fully and honestly reported and the tax fully paid

I also made a motion devoted solely to challenging

whether the intent or language of Congress in the statute at large from which §7206(2) was redacted would admit of the prosecution's construction of it.

The court reading §7206(2) in isolation ruled that the word "matter" was broader than facts and included issues of law.

Ground four: Continued from page 9:

elements of crime charged, as due process of law requires.

(b) Supporting facts - Continued from page 10.

or that they were living abroad in a foreign country, or to conceal from him the address of their domicile in one of the states of the Union.

It is uncontested that the claimants had reported all the facts necessary for the Secretary to correctly compute their income tax liability.

The facts show that defendants and claimants were open and notorious about their premise that they were considered by Congress to be nonresident aliens whose income in the main was not

taxable

I do not remember any evidence being presented that shows the Secretary alleged a section of the code that he alleged mandated a claimant's liability to the income tax either as a citizen or resident alien of the United States. Nor to show he alleged any amount that was owed as such a tax.

I remember no evidence to show that I knew that advocating conclusions of law on a claim for refund knowingly challenge the common understanding of the tax law, after full payment of the tax according to it and not found of merit was a false or fraudulent statement cognizable under 26 USC § 7206(2).

Ground Five: Literal truth, fraud on the court; vindictive prosecution, and prosecutorial misconduct, in knowing violation of due process

(2) Supporting facts:

The facts in grounds one, two, three and four are incorporated herein.

The prosecution did not introduce a Form 4340, Certification of Assessments and Payments, for any of the claimants alleged liabilities.

When the magistrate order the prosecution to give defendants a copy of the Individual Master File for each claimant it gave Form 4340's instead. And in latter pretrial argument said it would use any other way to prove

their liability.

None of the Forms 4340 show the Secretary identified ~~the~~^{an} act of Congress he alleged mandated claimants liability. They show that each and every liability and assessment were founded on a Form 1040 filed.

The prosecution introduced Forms 4340 for several years on the and each of them show the same things there on claimant show, even for years Mrs. Some testified I had file a zero return and years I filed no return.

For the years I filed zero returns and these I did not file the Form 4340 shows an assessment was made on a return filed and the amount assessed zero. Then, later it shows the same except it

page 47

shows an amount assessed
in the thousands of dollars.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

RANDY THOMAS NAVES,)	
)	
Plaintiff,	)	Case No. 2:06-CV-658 DB
)	
v.	)	District Judge Dee Benson
)	
CAPT. WIL CARLSON et al.,	)	ORDER TO SHOW CAUSE
)	
Defendants.	)	Magistrate Judge David Nuffer

Plaintiff, inmate Randy Thomas Naves, raises a variety of claims in his civil rights complaint.¹ He alleges Defendant Wil Carlson fired him from his job because he made personal use of a prison copy machine, confiscated some of Plaintiff's property--including religious books--without giving Plaintiff a confiscation slip, questioned Plaintiff about his religion, extended Plaintiff's "TRO" and his rehearing date, and pushed to get Plaintiff sent to maximum security. Plaintiff also names as defendants Richard Elliott, Dirk (no last name listed), Annabelle Carlson, and John Does One and Two. He appears to link no specific causes of action to any of these defendants, except for Dirk, whom he asserts questioned him about his religion.

Other allegations not linked to defendants involve Plaintiff's reclassification to severe management problem and level-two status; transfer to maximum security and a prison job making less money; "BZY" write-up, charging unauthorized use of a

¹See [42 U.S.C.A. § 1983 \(2006\)](#).

prison computer; inability to work for pay since leaving maximum security; and the fact that Plaintiff had to send a religious book to property because he was allowed to keep only ten books and it showed nudity; and the fact that he has been discriminated against because of his religion, violating his rights to free speech, free exercise of religion, equal protection, and the Religious Land Use and Institutionalized Persons Act (RLUIPA).²

Plaintiff properly documents his assertion that he has exhausted all his prison grievances as to Defendant Carlson's questioning him about his religion and confiscating his property. However, he neither describes nor documents any attempts to grieve any other claims or any other defendants' actions.

To pursue his case, Plaintiff must have already totally exhausted all his claims through every prison grievance level.³ Section 1997e(a) prescribes a pleading prerequisite for prisoners.⁴ Consequently, a complaint that does not properly allege the exhaustion of administrative remedies "'is tantamount to one that fails to state a claim upon which relief may be granted.'"⁵ A prisoner plaintiff must

²See *id.* §§ 2000cc-1

³See *id.* § 1997e(a) ("No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal Law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.").

⁴See [Steele v. Fed. Bureau of Prisons, 355 F.3d 1204, 1210 \(10th Cir. 2003\)](#).

⁵*Id.* (quoting [Rivera v. Allin, 144 F.3d 719, 731 \(11th Cir. 1998\)](#)).

(1) plead his claims with "a short and plain statement . . . showing that [he] is entitled to relief," in compliance with Fed. R. Civ. P. 8(a)(2), and (2) "attach[] a copy of the applicable administrative dispositions to the complaint, or, in the absence of written documentation, describe with specificity the administrative proceeding and its outcome."⁶

Absent "'particularized averments concerning exhaustion showing the nature of the administrative proceeding and its outcome, the action must be dismissed under § 1997e.'"⁷

Further, the Tenth Circuit reads § 1997e(a) as a "total exhaustion" rule, meaning that "'when multiple prison condition claims have been joined . . . § 1997e(a) requires that all available prison grievance remedies must be exhausted as to all of the claims.'"⁸ Though Plaintiff may have fully grieved two of his claims as to one defendant, he has not met the pleading requirement of specifically detailing all three levels of grievances and responses as to any of his many other claims. "[T]he presence of unexhausted claims in [Plaintiff's] complaint require[s this C]ourt to dismiss his action in its entirety without prejudice."⁹

⁶*Id.* (alterations in original) (quoting [Knuckles El v. Toombs, 215 F.3d 640, 642 \(6th Cir. 2000\)](#)).

⁷*Id.* at 1211 (quoting [Knuckles El, 215 F.3d at 642](#)).

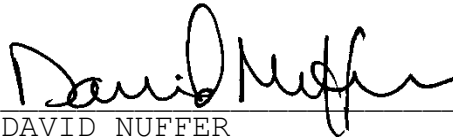
⁸[Ross v. County of Bernalillo, 365 F.3d 1181, 1188-89 \(10th Cir. 2004\)](#) (quoting *Graves v. Norris*, 218 F.3d 884, 885 (8th Cir. 2000)).

⁹*Id.* at 1189.

IT IS THEREFORE ORDERED that within thirty days Plaintiff must show cause why his complaint should not be dismissed for failure to adequately plead that he exhausted many of his claims.

DATED this 25th day of August, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "David Nuffer", is written over a horizontal line.

DAVID NUFFER
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

FILED
U.S. DISTRICT COURT
2006 AUG 25 A 10:05
DISTRICT OF UTAH

HARRY D. WILLETT,

Plaintiff,

vs.

C. R. ENGLAND, INC., et al.,

Defendants.

BY: DEPUTY CLERK

ORDER OF REFERENCE

Civil No. 2:06 CV 673 TC

IT IS ORDERED that, as authorized by 28 U.S.C. § 636(b)(1)(B) and the rules of this court, the above entitled case is referred to United States Magistrate Judge Brooke C. Wells. Judge Wells is directed to manage the case, receive all motions, hear oral arguments, conduct evidentiary hearings as deemed appropriate, and to submit to the undersigned judge a report and recommendation for the proper resolution of dispositive matters presented.

DATED this 24th day of August, 2006.

BY THE COURT:



TENA CAMPBELL
United States District Judge

**In the United States District Court
for the District of Utah, Central Division**

FILED
U.S. DISTRICT COURT

2006 AUG 25 A 10:57

DISTRICT OF UTAH

BY: *Ce*
DEPUTY CLERK

STEVEN MCCORMICK,

Plaintiff,

vs.

NPS PHARMACEUTICALS, INC., et al.,

Defendants.

ORDER OF RECUSAL

Case No. 2:06 CV 699

I recuse myself in this case, and ask that the appropriate assignment card
equalization be drawn by the clerk's office.

DATED this 24th day of August, 2006.


J. Thomas Greene
J. THOMAS GREENE
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

MICHAEL MAEZ,)
)
Plaintiff,) Case No.
)
v.)
)
LT. RIDDLE et al.,) **O R D E R**
)
Defendants.)

FILED
U.S. DISTRICT COURT

2006 AUG 25 A 11:40

DISTRICT OF UTAH
BY: 
DEPUTY CLERK

Plaintiff/inmate, Michael Maez, submits a *pro se* civil rights case.¹ Plaintiff applies to proceed without prepaying his filing fee.² However, Plaintiff has not as required by statute submitted "a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint . . . obtained from the appropriate official of each prison at which the prisoner is or was confined."³

IT IS HEREBY ORDERED that Plaintiff's application to proceed without prepaying his filing fee is granted.

So that the Court may calculate Plaintiff's initial partial filing fee, IT IS ALSO ORDERED that Plaintiff shall have thirty days from the date of this Order to file with the Court a certified copy of his inmate trust fund account statement(s). If

¹See 42 U.S.C.S. § 1983 (2006).

²See 28 *id.* § 1915.

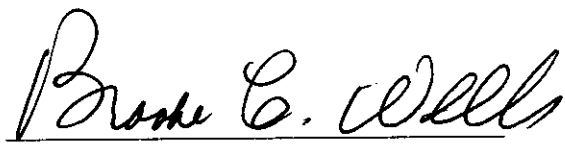
³See *id.* § 1915(a)(2) (emphasis added).

Judge Paul G. Cassell
DECK TYPE: Civil
DATE STAMP: 08/25/2006 @ 12:37:47
CASE NUMBER: 2:06CV00710 PGC

Plaintiff was held at more than one institution during the past six months, he shall file certified trust fund account statements (or institutional equivalent) from the appropriate official at each institution where he was confined. The trust fund account statement(s) must show deposits and average balances for each month. If Plaintiff does not fully comply, his complaint will be dismissed.

DATED this 23 day of August, 2006.

BY THE COURT:

A handwritten signature in cursive script, reading "Brooke C. Wells". The signature is written in black ink and is positioned above the printed name and title.

BROOKE C. WELLS
United States Magistrate Judge

UNITED STATES DISTRICT COURT

FILED
U.S. DISTRICT COURT

2006 AUG 25 P 1:58

Central

District of

UTAH

DISTRICT OF UTAH

Deborah Lynne Connor

Plaintiff

V.

O'Curran

Defendant

ORDER ON APPLICATION
TO PROCEED WITHOUT
PREPAYMENT OF FEES

Judge Tena Campbell

DECK TYPE: Civil

DATE STAMP: 08/25/2006 @ 14:09:46

CASE NUMBER: 2:06CV00711 TC

Having considered the application to proceed without prepayment of fees under 28 USC §1915;

IT IS ORDERED that the application is:


☒ GRANTED.

☒ The clerk is directed to file the complaint.

☐ IT IS FURTHER ORDERED that the clerk issue summons and the United States marshal serve a copy of the complaint, summons and this order upon the defendant(s) as directed by the plaintiff. All costs of service shall be advanced by the United States.

☐ DENIED, for the following reasons:

ENTER this 24th day of August, 2006.


Signature of Judge

Magistrate Judge Samuel Alba
Name and Title of Judge

UNITED STATES DISTRICT COURT

Central Division

District of

UTAH

John A. Campbell

Plaintiff

V.

Municipality of Hackensak, NJ

Defendant

ORDER ON APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES

CASE NUMBER:

Having considered the application to proceed without prepayment of fees under 28 USC §1915;

IT IS ORDERED that the application is:

☒ GRANTED.

☒ The clerk is directed to file the complaint.

☐ IT IS FURTHER ORDERED that the clerk issue summons and the United States marshal serve a copy of the complaint, summons and this order upon the defendant(s) as directed by the plaintiff. All costs of service shall be advanced by the United States.

☐ DENIED, for the following reasons:

ENTER this 25th day of August, 2006.

s/David Nuffer

Signature of Judge

Magistrate Judge David Nuffer

Name and Title of Judge

UNITED STATES DISTRICT COURT

Central Division

District of

FILED
U.S. DISTRICT COURT

UTAH
AUG 25 P 4:02

Arthur Bradley

Plaintiff

V.

Jo Anne Barnhart
Social Security Administration

Defendant

ORDER ON APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES

DISTRICT OF UTAH

DEPUTY CLERK

Judge Tena Campbell

DECK TYPE: Civil

DATE STAMP: 08/25/2006 @ 16:07:04

CASE NUMBER: 2:06CV00715 TC

Having considered the application to proceed without prepayment of fees under 28 USC §1915;

IT IS ORDERED that the application is:

☒ GRANTED.

☒ The clerk is directed to file the complaint.

☐ IT IS FURTHER ORDERED that the clerk issue summons and the United States marshal serve a copy of the complaint, summons and this order upon the defendant(s) as directed by the plaintiff. All costs of service shall be advanced by the United States.

☐ DENIED, for the following reasons:

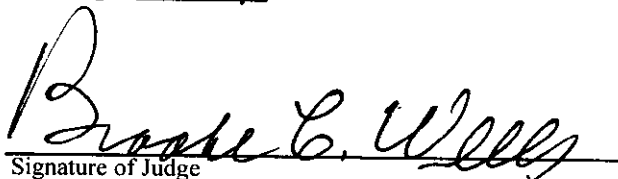
ENTER this

25

day of

Aug

2006.


Signature of Judge

Magistrate Judge Brooke C. Wells

Name and Title of Judge